

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-20518 (NEW SERIES)

DATE OF FINAL PASSAGE JULY 28, 2015

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 113.0103 BY REPEALING THE DEFINITION OF “AFFORDABLE HOUSING COST” AND BY AMENDING THE DEFINITION OF “DENSITY;” AMENDING CHAPTER 11, ARTICLE 3, DIVISION 2 BY AMENDING SECTION 113.0222; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, 143.0740, BY ADDING NEW SECTION 143.0717, AND BY READOPTING EXISTING PROVISIONS OF CHAPTER 14, ARTICLE 3, DIVISION 7 NOT OTHERWISE AMENDED, RELATING TO AFFORDABLE HOUSING DENSITY BONUS REGULATIONS.

§113.0103 Definitions

Abutting property through Affiliate [No change in text.]

~~*Affordable housing cost* shall mean (1) for ownership housing, a housing payment which includes loan principal, loan interest, property taxes, property and mortgage insurance, and homeowners association dues which allows a household with a gross income at not more than one hundred percent (100%) of the area median income to purchase a home and (2) for rental or cooperative housing, a housing payment including a reasonable allowance for utilities, which does not exceed thirty percent (30%) of not more than fifty percent (50%) of the area~~

~~median income for very low income households and thirty percent (30%) of not more than eighty percent (80%) of the area median income for low income households.~~

Alley through Deemed complete [No change in text.]

Density means the relationship between the number of ~~dwelling units~~ *dwelling units* existing or permitted on a *premises* and the area of the *premises*. ~~See Section 113.0222 for additional information on calculating density.~~

Designated historical resource through Yard [No change in text.]

§113.0222 Calculating Maximum Permitted Density

(a) Multiple Dwelling Unit Development

For *multiple dwelling unit development*, the maximum number of units that may be permitted on any *premises* is determined by dividing the ~~lot~~ *lot* area of the *premises* by the number of square feet required for each ~~dwelling unit~~ *dwelling unit* (maximum permitted ~~density~~ *density*), as prescribed by the applicable base zone.

(1) If the quotient resulting from this calculation exceeds a whole number by 0.50 or more, the number of ~~dwelling units~~ *dwelling units* ~~may~~ *shall* be increased to the next whole number.

(2) [No change in text.]

(3) In determining the maximum permitted *density*, the rounding provisions of Section 113.0222(a)(1) may be used only once. ~~For example, if multiple calculations are required as with application of~~

~~the density bonus provision, the result of only one calculation may be increased to the next whole number.~~

Example of calculation of *density* for *multiple dwelling unit development*:

Lot Area: 1.5 acres x 43,560 (sq. ft./ac.) = 65,340 sq. ft.

Maximum Permitted *Density*: 1 ~~dwelling unit~~ dwelling unit/2000 sq. ft.

Units Permitted = 65,340 ÷ 2,000 = 32.67 ~~dwelling units~~ dwelling units

Since the quotient exceeds a whole number by more than 0.50, the maximum number of permitted ~~dwelling units~~ dwelling units ~~may~~ shall be rounded up to 33 ~~dwelling units~~ dwelling units.

(b) [No change in text.]

(c) For purposes of calculating density for a development proposing a density bonus pursuant to Chapter 14, Article 3, Division 7, where the maximum density of the base zone and the land use plan are inconsistent, the maximum density allowed under the land use plan shall prevail. Calculations resulting in any fractional number shall be increased to the next whole number.

§143.0710 Purpose of Affordable Housing Density Bonus Regulations

The purpose of these regulations is to provide increased residential density to developers who guarantee that a portion of their residential *development* will be available to *moderate income*_{7.2}, *low income*_{7.2}, *very low-income*_{7.2}, or senior

households. The regulations are intended to materially assist the housing industry in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities for *moderate income*, *low income*, *very low-income*, and senior households throughout the City. It is intended that the affordable housing *density* bonus and any additional *development* incentive be available for use in all residential *development* of five or more units, using criteria and standards provided in the ~~Progress Guide and~~ General Plan, ~~as defined by the San Diego Housing Commission;~~ and that requests be processed by the City of San Diego; and ~~that they~~ be implemented by the President and Chief Executive Officer of the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

§143.0715 When Affordable Housing Density Bonus Regulations Apply

This ~~d~~Division applies to any residential *development*, ~~located on land~~ where current zoning allows for five or more ~~pre-density bonus dwelling units~~, not including density bonus units, where an *applicant* proposes *density* beyond that permitted by the applicable base zone and land use plan at the time the application is deemed complete, in exchange for either of the following ~~as set forth in this division~~:

(a) through (b) [No change in text.]

§143.0717 Required Replacement of Affordable Units

(a) An applicant is ineligible for a density bonus or any incentive under this Division if the property on which the development is proposed contains, or

during the five years preceding the application, contained, rental *dwelling units* that have had the rent restricted by law or covenant to persons and families of *low income* or *very low income*, or have been occupied by persons and families of *low income* or *very low income*, unless the proposed *development* replaces the affordable *dwelling units*, and either:

- (1) Provides affordable *dwelling units* at the percentages set forth in Section 143.0725 (inclusive of the replacement *dwelling units*), or
- (2) Provides all of the *dwelling units* as affordable to *low income* or *very low income* households, excluding any manager's unit(s).

(b) The number and type of required replacement *dwelling units* shall be determined as follows:

- (1) For a *development* containing any occupied *dwelling units*, the *development* must contain at least the same number of replacement *dwelling units*, of equivalent size or type, or both, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied *dwelling units*. If some of the *dwelling units* in the *development* are unoccupied, the replacement *dwelling units* shall be of the same proportion of affordability as those *dwelling units* that are occupied.
- (2) If all the *dwelling units* are vacant or have been demolished within the five years preceding the application, the *development* must contain at least the same number of replacement *dwelling units*, of equivalent size or type, or both, as existed at the time of the

greatest number of occupied affordable *dwelling units* in that *development*, and must be made affordable to and occupied by persons and families in the same or a lower income category as those in occupancy at that same time. If the income categories are unknown for the prior five year period, then one-half of the replacement *dwelling units* shall be made available for rent to or purchase by and occupied by persons and families in the *very low income* category, and one-half of the replacement *dwelling units* shall be made available for rent to and occupied by persons and families in the *low income* category.

(3) All replacement *dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.

(4) All rental replacement *dwelling units* shall be affordable for at least 55 years.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

(a) through (b) [No change in text.]

(c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:

~~(1)~~(1) *Low income* - At least 10 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30

percent of 60 percent of area median income, as adjusted for assumed household size; or

~~(2)~~(2) *Very low income* - At least 5 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for assumed household size.

(3) [No change in text.]

(4) The *dwelling units* shall remain available and affordable for a period of at least ~~30~~ 55 years or longer, as may be required by other laws or covenants.

(d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:

(1) Moderate income - At least 10 percent of the total *dwelling units* in a common interest development, as defined in California Civil Code Section 4100, shall be affordable, provided that all *dwelling units* in the *development* are offered to the public for purchase.

~~(1)~~(2) The initial occupant of all for-sale affordable housing density bonus units shall be only be available to common interest development, as defined by California Civil Code Section 1351, where at least 10 percent of the pre-*density* bonus units in the *development* shall be initially sold and affordable to a very low

~~*income, low income, or moderate income* households at a price that is affordable to families earning 110 percent of the area median income as adjusted for assumed household size, as determined by the San Diego Housing Commission, and where all of the *dwelling units* are offered to the public for purchase.~~

~~(2)~~(3) Prior to, or concurrent with, the sale of each *density* bonus affordable unit, the *applicant* shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured.

~~(3)~~(4) Each for-sale unit shall be occupied by the initial owner at all times until the resale of the unit.

~~(4)~~(5) Upon the first resale of a unit the seller shall comply with all conditions regarding the sale of a unit, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).

~~(5)~~(6) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be ~~dispensed~~ dispersed throughout the *development*.

(e) through (g) [No change in text.]

(h) A condominium conversion that provides at least 33 percent of the total dwelling units to low income and moderate income households, or 15

percent of the total *dwelling units* to *low income* households, shall be entitled to a *density* bonus of 25 percent or other incentives of equivalent financial value in accordance with State Density Bonus Law and this Division, unless the *development* previously received a *density* bonus or other incentives.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

The City shall process an incentive requested by an *applicant*, consistent with State Density Bonus Law and as set forth in this Section.

- (a) ~~The *applicant* shall demonstrate that the incentive is necessary to make the housing units economically feasible.~~
- (ba) An incentive means any of the following:
 - (1) through (3) [No change in text.]
- (eb) Items not considered incentives by the City of San Diego include, but are not limited to the following:
 - (1) through (6) [No change in text.]
- (dc) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(~~e~~) or 143.0720(~~d~~) shall be processed according to the following:
 - (1) Upon an *applicant's* request, ~~development meeting~~ *development that meets* the applicable requirements of Sections 143.0720 and 143.0725 shall be entitled to incentives pursuant to Section 143.0740 unless the City makes a written *finding* of denial based upon substantial evidence, of ~~either~~ any of the following:

- (A) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053;
- (B) The incentive would have a specific adverse impact upon public health and safety or as defined in Government Code section 65589.5, the physical environment, including environmentally sensitive lands, or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the *development* unaffordable to *low income* and *moderate income* households;
- (C) The incentive would be contrary to state or federal law.
Requested incentives shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no incentive shall be granted without such compliance; or
- (D) Within the Coastal Overlay Zone, the incentive would be inconsistent with the resource protection standards of the City's Local Coastal Program or the environmentally sensitive lands regulations, with the exception of density.

(2) through (4) [No change in text.]

(5) Notwithstanding Sections 143.0740(~~dc~~)(3) and (4), when a *development permit* is required, the decision to deny a requested incentive shall be made by the decision maker for the *development permit*.

(~~ed~~) The number of incentives available are identified in Table 143-07A for *low income* households, Table 143-07B for *very low income* households, and Table 143-07C for *moderate income* households consistent with the percentage of pre-*density* bonus units identified in column one of each table.

Table 143-07A
Low Income Density Bonus
~~Rental Housing~~ Households

[No change in text.]

Table 143-07B
Very Low Income Density Bonus
~~Rental Housing~~ Households

[No change in text.]

Table 143-07C
Moderate Income Density Bonus
~~For-Sale Housing~~ Households

Percent <i>Moderate Income</i> Units	Percent <i>Density</i> Bonus	Number of Incentives
10	20 <u>5</u>	1
11	21 <u>6</u>	1
12	22 <u>7</u>	1
13	23 <u>8</u>	1
14	24 <u>9</u>	1
15	25 <u>10</u>	1
16	26 <u>11</u>	1
17	27 <u>12</u>	1
18	28 <u>13</u>	1
19	29 <u>14</u>	1

Percent <i>Moderate Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
20	30 <u>15</u>	2
21	31 <u>16</u>	2
22	32 <u>17</u>	2
23	33 <u>18</u>	2
24	34 <u>19</u>	2
25 – 29	35 <u>20</u>	2
≥ 30 <u>26</u>	35 <u>21</u>	3 <u>2</u>
<u>27</u>	<u>22</u>	<u>2</u>
<u>28</u>	<u>23</u>	<u>2</u>
<u>29</u>	<u>24</u>	<u>2</u>
<u>30</u>	<u>25</u>	<u>3</u>
<u>31</u>	<u>26</u>	<u>3</u>
<u>32</u>	<u>27</u>	<u>3</u>
<u>33</u>	<u>28</u>	<u>3</u>
<u>34</u>	<u>29</u>	<u>3</u>
<u>35</u>	<u>30</u>	<u>3</u>
<u>36</u>	<u>31</u>	<u>3</u>
<u>37</u>	<u>32</u>	<u>3</u>
<u>38</u>	<u>33</u>	<u>3</u>
<u>39</u>	<u>34</u>	<u>3</u>
<u>40</u>	<u>35</u>	<u>3</u>

(~~fe~~) Child Care Center: *Development* that meets the criteria in Section

143.0720 and includes a child care center as defined in Section

141.0606(a)(2) as part of, or adjacent to, such *development* shall be

entitled to an additional *density* bonus or incentive provided that:

(1) through (4) [No change in text.]

(~~gf~~) Parking: In addition to any other incentive, and upon the request of an

~~applicant, that proposes a development meeting the criteria of Section~~

~~143.0720(c), (d), or (e) the City shall apply the following vehicular~~

~~parking ratio, inclusive of handicapped and guest parking regulations:~~

- (1) For a *development* that meets the criteria of Section 143.0720(d), the following vehicular parking ratios, inclusive of disabled and guest parking, shall apply:
- (1A) Zero to one bedroom: one onsite parking space.
 - (2B) Two to three bedrooms: two onsite parking spaces.
 - (3C) Four and more bedrooms: two and one-quarter half parking spaces.
 - (4D) Additional reductions to the parking ratios of 0.25 spaces per *dwelling unit* shall be granted for projects *development* that is at least partially within a *transit area*, and for very *low income* households as follows as described in Chapter 13, Article 2, Division 10 (Transit Area Overlay Zone), or that is subject to Chapter 13, Article 2, Division 11 (Urban Village Overlay Zone):.
- (2) For a *development* that meets the criteria of Sections 142.0720(c) or (e), the following vehicular parking ratios, inclusive of disabled and guest parking, shall apply:
- (A) ~~*Development* that is at least partially within a *transit area* as described in Chapter 13, Article 2, Division 10 (Transit Area Overlay Zone) or that is subject to Chapter 13, Article 2, Division 11 (Urban Village Overlay Zone), shall receive a 0.25 space per *dwelling unit* reduction in the parking ratio for the entire *development*. The parking regulations set~~

forth in Section 142.0527 shall apply for *dwelling units* that meet the criteria of Section 142.0527(a)(3). If these parking ratios are greater than the parking ratios set forth in Section 143.0740(f)(1), then the parking ratios in Section 143.0740(f)(1) shall apply.

- (B) ~~*Development that includes dwelling units limited to occupancy by very low income households shall receive a 0.25 space reduction in the parking ratio for each dwelling unit that is limited to occupancy by a very low income household. The parking requirements for all other dwelling units within a development that do not meet the requirements of Section 142.0527(a)(3) shall be determined in accordance with Section 143.0740(f)(1).*~~
- (C) ~~*Development that includes dwelling units limited to occupancy by very low income households, and is at least partially within a transit area, shall receive the combined reductions in sections 143.0740(g)(4)(A) and (B).*~~

- (~~53~~) For purposes of this ~~d~~Division, a *development* may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking or parking within a required front ~~yard~~ yard setback.

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